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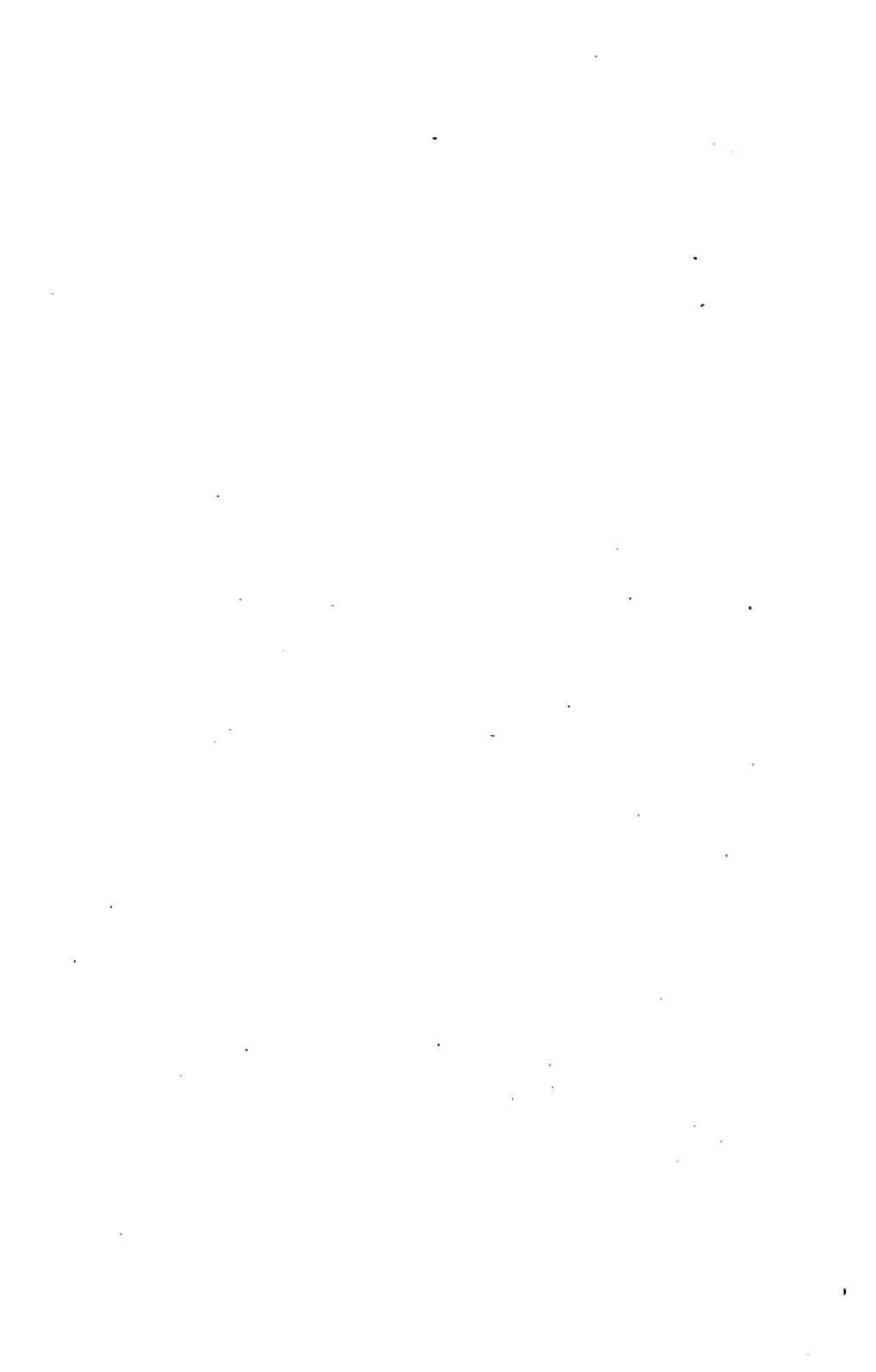
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PARISH REGISTERS:

A PLEA

FOR

THEIR PRESERVATION.



BY

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52



"All the property in this country, or a large part of it, depends on Registers."
LORD CHIEF JUSTICE BEST.

"I consider there is nothing of more importance than the endeavouring to deposit
in some secure place the Registers of Births, Baptisms, and Funerals."
MR. BARON GARROW.

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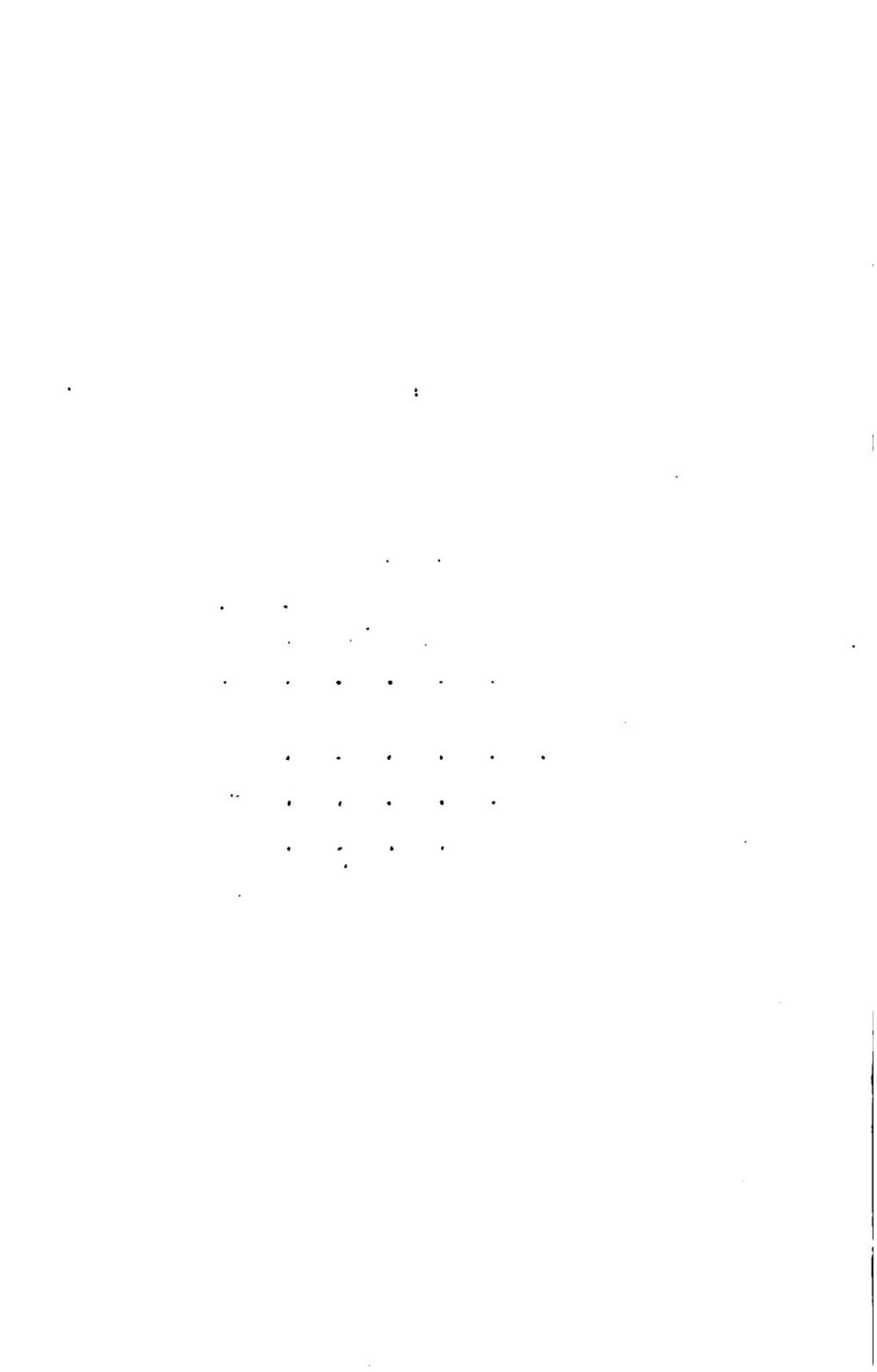
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PLEA FOR PARISH REGISTERS.

INTRODUCTORY.

By the Civil Registration Act,* passed 17 August 1836, the State for the first time undertook the duty of registering in one Central Public Office the Births, Marriages and Deaths of all the inhabitants of England and Wales irrespectively of their religious opinions.

Since June 1837, (when the provisions of the Act came into operation) duplicates of the entries of all Births, Marriages and Deaths in England and Wales, have been regularly transmitted to the General Register Office, London, where they are alphabetically indexed, on a most elaborate plan, and rendered accessible to the public for a small search fee.

As a certified copy of any entry in the books of the Registrar-General is receivable in evidence "without any further or other proof of such entry," the modern parish Registers since June 1837 possess little of that peculiar value and interest which attach to the *Old* Parish Registers. These latter, however, still remain of the utmost importance, and are a part of our National Records even more deserving of careful preservation than many of the documents stored in the fire-proof buildings of the Public Record Office. Yet the act of 1836 strangely omitted to make any provision for the safe-custody of these old registers (which, in many instances, date back to the year 1538): an omission still more surprising when we consider the grave nature of the facts disclosed in the printed Parish Register Abstract which had been presented to both Houses of Parliament three years previously.†

For the institution of Parish Registers, we are indebted to

* "An Act for registering Births, Marriages and Deaths in England. 6 & 7 Will. IV., c. 86.

† See p. 10. *post.*

Thomas Cromwell, the energetic Minister of Henry VIII. In 1538, acting as Vice-gerent of the King in all matters Ecclesiastical, he issued an Injunction to the Clergy ordering every parson, vicar or curate for every church to "keep one book or register wherein he should write the day and year of every wedding, christening and burial ... and also there insert every persons name that should be so wedded, christened and buried." To ensure the safe-keeping of the Register book, it was further ordered that the parish should "be bound to provide of their common charges one sure coffer with two locks and keys," one key to be retained by the parson the other by the churchwardens.

Similar Injunctions were issued by King Edward VI, in 1547, and by Queen Elizabeth in 1559 ; in which latter year also every minister on institution was required to subscribe a protestation that he would keep the Register-books according to the Injunctions.

One of the most important regulations for the preservation of the old registers was contained in Canon No. LXX., authorized by King James in 1603 by which copies of all Parish Registers then extant were ordered to be made on parchment and preserved. For the future the registers were to be kept in "one sure coffer, with three locks and keys" one for the minister and one for each of the churchwardens. Nearly all the older registers now extant consist of the parchment copies executed in obedience to this Canon.

Passing over the further regulations as to parish registers contained in the ordinances of Parliament in 1644 and 1653, and in the Acts of Charles II. William III. and George II.* we come to Mr. (afterwards Sir) George Rose's act of 1812,† which

* 30 Car. II. c. 3. s. 4; 6 & 7 Will. III. c. 6; 7 & 8 Will. III. c. 65; 26 Geo. II. c. 38.

† "An Act for better regulating Parish and other Registers of Births, Baptisms and Burials in England" 52 Geo. III. c. 146. It is this Act which commits the ludicrous blunder of first enacting a penalty of 14 years' transportation for falsifying the register, and then directing that half the penalty shall be received by the informer!.

though ill drawn and with many imperfections of detail, contained several important provisions for perfecting the mode of registration. By this Act, registers of Baptisms, Marriages and Burials, were directed to be kept by each incumbent in separate books of parchment or paper to be provided by the King's Printer at the expense of the respective parishes according to Scheduled forms, such books to be preserved "in a dry well-painted iron chest in some dry safe and secure place" within the usual residence of such incumbent (if resident within the parish) or in the parish church.

From 1813 to the present time the form of the registers has been governed by the regulations of this Act—but its provisions for the safe-custody of these records have in too many instances been most shamefully neglected: and like the precautions of earlier times have utterly failed to preserve the registers in their integrity.

IMPORTANCE OF PARISH REGISTERS.

It is no mere antiquarian interest which attaches to these records. Their safe-custody is a matter of practical importance, not to any one class of the people only, but to all classes. Every individual be he rich or poor, peer or peasant, has an interest in the preservation of our Old Parish Registers; but, to the poor man, of whose existence they constitute almost the only record, it is of special consequence to preserve intact

"These simple annals of the Village Poor."

"While the rich" said Lord Elcho, in moving for leave to introduce the Bill which afterwards became the Act by which the system of Civil Registration was applied to Scotland,* "have their title-deeds, their parchments and their sculptured monuments, there is literally no record of the poor man's birth or death except the Parish

* 17 & 18 Vict. c. 80.

Register, which may not inaptly be called the CHARTER OF THE POOR MAN." (*Hansard*, cxxxii, p. 576.)

"Those persons," his lordship added, "who might not have had their attention particularly directed to this subject, could form but little idea of the enormous sums which were annually dependent, and the succession to which entirely depended upon, the accuracy of the parish registers. He had lately been in communication with a gentleman who was for some years rector of Sandon, in the county of Stafford, and who stated that during his period of incumbency, extending only over fifteen years, sums exceeding 40,000*l.* (the parish containing only about 600 inhabitants) were dependent upon the accuracy of the parish registers; and many persons who had succeeded to these large sums of money were persons in the humblest sphere of life." In the case of the Attorney General *v.* Oldham, the possession of a fortune of 100,000*l.* depended on the genuineness of a parish register. The late Lord Chief Justice Best, (afterwards Lord Wynford) in his charge to the jury in this case, remarked: "*All the property in this country, or a large part of it, depends on Registers.*" The late Mr. Baron Garrow, in the same case said: "This is a subject which I have considered, perhaps, more than I have had an opportunity of considering many other things, and from what I have had occasion to observe, *I consider there is nothing of more importance than the endeavouring to deposit in some secure place the Registers of Births, Baptisms and Funerals.* The importance of it was impressed upon my mind in consequence of what came to my knowlege of the Register of a parish near London being taken by a man, who was at the time the Curate of the parish, to a Public House, where the whole of a page was destroyed for the purpose of introducing one new register."

Often has the legal practitioner had to deplore the missing link in what would otherwise have formed a clear chain of evidence — a link which the Parish register could alone supply and for lack of which all the previous labour of

investigation has been rendered abortive.* To the genealogist these registers supply a species of information now obtainable from no other source, although, down to the 16th century, it was partly procurable from the *Inquisitiones post mortem*, Heralds' Visitations and Heraldic Funeral Certificates.

In claims to peerages Parish Registers have often formed the chief evidence;† in questions respecting tithes,‡ and the appropriation of charitable bequests,§ they have afforded material assistance; and to the student of political arithmetic they offer much valuable information as to the number and longevity of the people in past ages. Scattered, moreover, through their pages is a large mass of memoranda on public and local affairs, jotted down at the time by parochial incumbents, and presenting a mine of original facts for the historian, topographer, and biographer, which has been hitherto but very slightly worked.

DISGRACEFUL CONDITION OF PARISH REGISTERS.



What is the present condition of these important records? Of their deplorable state, forty years ago, we have ample information, vouched for by the highest authority. The Returns made pursuant to the Act for taking an Account of the

* The absence unexplained of the baptismal certificate of the person forming the material link of a pedigree, while the other sons are carefully and regularly entered, forms a difficulty almost insuperable in substantiating the alleged pedigree. *Crouch v. Hooper*, 16 Beav 182.

† See Chandos Peerage Claim, Leigh Peerage Claim, Huntingdon Peerage Claim, &c.

‡ Drake *v. Smyth*; 5 Price, 369.

§ The entries as to the wills of benefactors and the appropriation of charitable bequests, contained in many registers, were of much assistance to the Commissioners for Investigating the Public Charities of the Kingdom.

Population, in 1831, comprised answers to a question which had been put to every incumbent of a parish as to the number of volumes, dates, and state of preservation of the Registers, down to the year 1812, then in his possession. An Abstract of these Returns was printed by authority of Parliament in 1833; and the full Abstract of the Answers, together with nearly 4,000 original letters from clergymen and others in special explanation are now deposited in the British Museum, in six large folio volumes. From these unimpeachable sources is obtained the following general summary of the condition of Parish Registers after 300 years of clerical custody:—

Half the Registers, anterior to A.D. 1600, have disappeared.

812 Registers commence in 1538, (the year of their institution), about 40 of which contain certain entries, copied probably from memoranda kept in the old monasteries or from tombstones, anterior to that date.

1,822 Registers commence from 1538 to 1558 (when Queen Elizabeth required the Protestation from the Clergy, before referred to.)

2,448 Registers commence from 1558 to 1603 (when, as we have seen, Canon No. 70 directed a copy of all extant parish Registers to be made on parchment and preserved.)

969 Registers commence from 1603 to 1650.

2,757 Registers commence from 1650 to 1700.

1,476 Registers commence from 1700 to 1750.

And the rest (about 600 or 700) since 1750.

Thus it appears, that out of about 10,000 parishes, more than 2,000, or over one-fifth of the whole, have no registers prior to the year 1700; and of these, 600 or 700 begin subsequently to 1750, some even so late as the present century! Very few registers, moreover, are perfect from the date of their commencement; gaps of ten, twenty, or thirty years not infrequently occur (the books having been lost or the leaves torn out) and many entries have been obliterated either designedly or through neglect. In glancing at the Returns for

one county only (Devon), the following entries meet the eye :—

Belstone. “There are several Registers, the earliest dated 1552, but so irregular and damaged that no correct account can be given; about 20 years ago some of the register-books were burnt.”

Honeychurch-Register begins 1728. “No marriage entered.”

Salcombe Regis. “One old book of baptisms, burials, marriages, but so torn and confused as to render it impossible to decide when the entries commence and terminate.”

Clist St. Lawrence. “The early entries are very defective, and some nearly illegible.”

Stokenham. “There is also an old and almost illegible register supposed to belong either to Sherford or Chilverstone.”

Aveton Giffard. “All the registers of baptisms, burials prior to 1678, and of marriages prior to 1754, have been accidentally burnt.”

Cadbury. “The earlier registers (baptisms, burials prior to 1762, marriages prior to 1756) have been accidentally burnt.”

Clayhidon. “The marriage register 1789-1802 was accidentally destroyed by a fire in the glebe-house.”

Dunkeswell. Register begins 1749. “One leaf appears to have been cut out.”

Tamerton Foliot. Register begins 1794. “All previous registers were accidentally destroyed by fire.”

Buckfastleigh. “Marriage register 1754-1779, lost.”

Darlington. “Register, marriages baptisms 1629-1653, burials 1617-1653, lost.”

Woodleigh. “The Register anterior to 1663 was destroyed by fire A.D. 1662.”

High Bickington. “The former registers (baptisms burials prior to 1707, marriages 1754) are supposed to have been burnt.”

Dowland. “Burial register lost.”

Haccombe. “No register can be found prior to 1813.”

Bickleigh. “From 1754 to 1812 no register can be found.”

Stoke Damerell. "Marriage register 1719-1735 missing."

That there is nothing exceptional in the condition of the Devonshire registers is manifest from the following returns selected at random from the numerous similar entries under other counties:—

Midd., Yorks. "Registers prior to 1678 burnt, with the vicarage house in that year."

West Lulworth, Dorset. Register begins 1745 Marriages, deficient 1753-1780. "Old register destroyed by fire 1780."

Copdock, Suffolk. "The early registers are reputed to have been burnt."

Little Thornham, Suffolk. "The earlier registers were burnt in a fire which consumed the parsonage house of a neighbouring parish."

Billingford, Norfolk. "The registers prior to 1744 were destroyed when the Churchwarden's house was burnt."

St. Botolph, Billingsgate. "The earlier registers were destroyed by the Fire of London."

Christian Malford, Wilts. "An old register burnt in the house of the Curate by lightning."

Huish Champflower, Northumberland. "The early registers are mutilated and illegible, occasioned by a storm unroofing the church and wetting the contents of the parish-chest."

Shelley, Essex. Registers "deficient from 1752 to 1757 and from 1800 to 1811 owing to the ruinous state of the church."

Wishaw, Warwickshire. Register begins 1773. "The earlier registers were nearly destroyed by damp, and are supposed to have been totally lost in 1814."

Hampreston, Dorset. "No register anterior to 1813, the church having been destroyed."

Brampton, Suffolk. "The early registers were lost in 1797 when the church was repaired."

Baddesley Clinton, Warwickshire. "The church was broken open and the registers, plate &c. stolen, A.D. 1813."

Hayes, Middlesex. Baptisms, burials deficient, 1761-1768. "Church having been broken open and the books destroyed."

Pinner, *Middlesex*. "The church was broken open about seven years ago and part of the registers destroyed."

Wroxham, *Norfolk*. "Church broken open and part of the registers destroyed."

Shilton, *Warwickshire*. "The earlier registers lost about 1800."

Kirknewton, *Northumberland*. "Early registers were destroyed at the house of the parish clerk, 1789."

Harlow, *Essex*. "The register was stolen."

Harefield, *Middlesex*. "No marriage register 1688-1753 can be found."

Merrow, *Surrey*. "No register from 1729-1754 can be found."

Wix, *Essex*. "There are some earlier registers, but they are in the hands of a solicitor with reference to some legal proceedings."

Whenbury, *Cheshire*. "A volume of registers anterior to 1684 was sent to the House of Lords on the question of the Leigh Peerage."

Althorp, *Lincolnshire*. "There are two register books of earlier date, which were taken away by the Archdeacon in 1824."

Otterford, *Salop*. "About 20 years ago the churchwarden, who was a shopkeeper, used some of the registers for waste-paper to enfold his goods."

Tresmere, *Cornwall*. Register anterior to 1625 "appears to have been produced at Launceston Assizes, but is now lost."

Chederton, *Suffolk*. "Register supposed to be in the Court at Norwich."

Shelland, *Suffolk*. "An early register is supposed to be in the possession of the patron Charles Tyrell Esq."

Berwick, *Suffolk*. "A register of baptisms taken to Peasmarsh by the former minister which has never been recovered."

Winifred Newburgh, *Dorset*. "The oldest registers are imperfect, indistinct, illegible and torn."

Botus Fleming, Cornwall. "Certain leaves cut out for fraudulent purposes."

Whenby, Yorkshire. "Many leaves cut out."

Great Ouseburn, Yorkshire. "Mutilated fragments of registers about 1662,"

Bickenhill, Warwickshire. "Several leaves cut or torn out."

Whitnash, Warwicks. "Two or three entries cut out."

Ellough, Suffolk. "Negligently kept and in some places erased."

Renhold, Bedfordshire. "Parts of the leaves cut out from the year 1668 to 1685. They appear to have been cut out by children who have evidently been scribbling and drawing figures."

Wainfleet, All Saints, Lincolnshire. "The first Register has been mutilated apparently to write bills in, as a butchers bill remains on part of the last leaf."

The incumbent of Chickerell, Dorset, writes :—"I have minutely examined the registers of this parish and hope there are no others in the Kingdom in which so little confidence should be placed. There are only two old books—one of parchment, the other of paper; the former sadly mutilated and interpolated, the latter so defective that during my incumbency of one year many certificates have been requested to no purpose for want of entries. The omissions, I expect, may be attributed to carelessness; the abuses, to frauds which have been committed on the lord of the manor in favour of the copy-holders; but to particularize all of them would be a very unprofitable work N.B. The father-in-law of my immediate predecessor had been the incumbent of Wyke Regis and Portland as well as of this parish previous to his resignation of this last to his relative, which circumstances will account for my having been enabled to restore last week to the rector of Wyke the register of his parish containing the burials from August 1678 to April 1711."*

* The truth as to the disgraceful condition of the Registers is *under stated*

Many registers have doubtless perished from causes over which their custodians had no control; causes which were—and under the present system must continue to be—inevitable; yet it is evident from the foregoing extracts that culpable negligence and indifference have had an equal if not larger share in bringing about the present lamentable result. “In a case just laid before the writer,” says *Mr. Coventry* in his work on *Evidence* (ed. 1832 p. 49), “it is stated that the parson’s greyhound had made her nest in the chest containing the parish registers, and that, as the reverend gentleman had a greater affection for the progeny of his companion than the offspring of his parishioners, the requisite registers of baptism &c. had become obliterated and partially destroyed.”

Bigland in his *Observations on Parish Registers* (published in 1766) mentions the case of a parish clerk, who was a tailor, having cut out more than 16 leaves of the old Register, in order to supply himself with measures. The Registers of South Otterington, containing several entries of the great families of Talbot, Herbert, and Falconberg, were formerly kept in the cottage of the parish clerk, who used all those preceding the 18th century for waste paper, and devoted not a few to the utilitarian employment of *singeing a goose** In the Huntingdon Peerage claim (p. 295.) we are told that the early registers of Christ Church, Hampshire, were used by the curate’s wife for the purpose of making *Kettle-holders*; and in other parishes it was found that entries relating to the Hastings family had been cut out.

If the condition of our old parish registers was so disgraceful forty years since, what must it be now? During the whole of this interval all the various processes of destruc-

in these returns, many incumbents having merely returned the number and date of commencement of the books without taking the trouble to investigate their condition.

* Burn, *Hist. Par. Reg.* p. 58

tion, from which the registers had for centuries been suffering, have been in full operation, and they are in operation at this moment. Fire, tempest, burglary, damp, mildew, careless or malicious injury, criminal erasure and interpolation, loss, and all the other various accidents which we have seen gradually but surely working the destruction of these registers, have been in active operation up to this time; and it is to be feared that if a fresh return were now ordered to be made, the proportion of loss and deterioration accrued during the last 40 years would be found greater than ever.

Within the last few years many registers have been destroyed or injured by fire,* and so late as February 1870, some robbers made an attack upon the church at Crossthwaite near Helsington, Westmorland, and "*the Baptismal and Marriage registers were destroyed.*" (*Times*, 23 Feb. 1870.)

A few years ago, the Registers of Kew, containing the baptism and marriage of the late Duke of Kent, father of Her Majesty the Queen, and also other Royal births, marriages, and deaths, were stolen, and have never yet been recovered,‡

DANGERS AND DEFECTS OF THE PRESENT SYSTEM.

It is remarkable that the present deplorable state of parish registers has been brought about, not from any lack of regulations by the ecclesiastical and civil authorities, but in spite of

* About 1880, Lewisham church was destroyed by fire, and all the Registers from 1550 perished. In 1857, the vestry of the church of Penwortham, Lancashire was found in ashes and the registers from 1586 were consumed.

† "The characters of the ancient transcripts are illegible to three-fourths of the present clergy." Sir Thos. Phillipps to the Chairman of the Select Committee in 1883.

‡ Burn, *Hist. Par. Reg.* p. 49.

them—a fact which points to the system itself as being intrinsically faulty. With but two or three exceptions, the reign of every Sovereign from the institution of parish registers under Henry VIII., down to the present time, has been signalised by some injunction, canon, ordinance, or Act of Parliament, providing with the most minute carefulness for the authenticity and safe custody of these important documents.* Comparing these stringent regulations with the result disclosed by the Returns in 1831, and with our knowledge obtained from other quarters of the state of the registers, the inference from experience seems irresistible that so long as they continue in the hands of their present custodians, their preservation can only be a question of degree and cannot possibly be rendered certain. Scattered all over the kingdom, in 10,000 different depositories, under the care—or want of care—of as many different custodians, they are at all times liable to be mislaid,† lost, burnt, stolen, mutilated, or falsified; and periodically, on the death of each incumbent (when a kind of interregnum ensues until the advent of his successor) they are peculiarly liable to danger.‡ Cases of erasure and interpolation are of frequent

* See Burns's *History of Parish Registers*.

† By the Population Returns in 1801 it appears that the register prior to 1784, of the parish of Ragdale, county Leicester, was in the possession of Earl Ferrers, and that "his Lordship desired the Rev. Wm. Casson, the curate, to say that it was mislaid." A part of the registers of Nuthurst, and also the register of Stevington, Berks, 1553—1559 are in the British Museum.—(Ayre Cat., p. 70, No. 1677, and Harl. MSS. No. 2895.)

‡ On recently inspecting the parish register of Welwyn, Herts, (which dates from 1558,) the writer met with the following entry:—"This old Register-book (which hath many curious things in it) may well deserve a new binding. It had been mislaid for many years, and was generally supposed to have been lost; but being found by Mr. Young in his late father's study (his father, the author of *Night Thoughts* had been rector of Welwyn) he delivered it to my custody and care in 1767, and,

occurrence and often cause the defeat of justice. In 1658, Charles Dudley, the titulary Duke of Northumberland, was found guilty of forging an entry of marriage in the register of East Greenwich, Kent, and fined 200 marks.*

Some of the registers produced in support of the claim to the barony of Chandos presented very suspicious appearances. In the register of St. Michael's, Harbledown, a large blot appeared upon the entry of the baptism of the second son of John Bridges and Maria his wife, in 1606, but enough was left to show it had been Edward the son of John. The case of the claimant turned upon this Edward. There appeared to be recent mutilations of the registers, and interpolations were suspected to have been made in the archbishop's duplicates. (*Hubback on Evidence*, Ed. 1844, p. 480). In the case of Oldham, previously cited, it was proved that in the "register sent to the bishop's registry, two persons were stated to have been married on a particular day, but in the parish register there appeared to have been an erasure in the exact place corresponding with the entry of the marriage in the copy."—(*Hubback in loc. cit.*)

In 1820, Mr. William Radcliffe was tried at York and found guilty of having, in 1801, forged in the parish register of Ravensfield an entry purporting to be the marriage of Edward Radclyffe and Rosamunde Swyfte, Feb. 24, 1640, and of having set forth such entry in a pedigree presented to the Herald's College to shew his descent from the ancient family of Radclyffe, formerly Earls of Derwentwater.

I intend to leave it as I received it, to the care and custody of the present and succeeding incumbents. J. J."

The earliest register of Kingston-on-Thames (1541—1556) appeared some years since in a Catalogue of Sale by Puttick & Simpson. It had been taken away with the books and papers of the Rev. S. W. Gandy, the vicar, in 1851. It is now restored to its proper custody.—(*Times*, Nov. 11, 1861.)

* *Siderfin's Reports*, part 2, p. 71,

So recently as last November, a man named Charles Chadwick, a claimant to the estates of Sir Andrew Chadwick of the time of Queen Anne, was prosecuted for being a party to the mutilation of the parish register of Haslingden, Lancashire, more than thirty years since. In 1861 the prisoner made a statutory declaration that two persons, named William and Squire Guest, went to the minister's house, at Haslingden, to search the register, and *during the minister's absence*, Squire Guest took a penknife from his pocket and abstracted a leaf containing the register of burial of one James Chadwick, of Haslingden, the real heir to Sir Andrew, whereby the claim of his descendants was frustrated. The prisoner subsequently swore that he had not been a witness to the mutilation; but it is a significant fact that *two leaves of the register are now missing* about the date in question.*—(*Pall Mall Gazette*, Nov. 28, 1871.)

Again, it is a very common practice for clergymen to allow the registers to remain in the custody of the parish clerks. The legal difficulties which may ensue from this practice are exemplified in a late case† in which a witness on the trial stated that "he went to K. for the purpose of comparing a certificate of burial with the parish register, and was directed to the clerk's house, and there saw a person who said he was parish clerk and who produced to him a book containing entries of burials with which he compared the certificate : held that as Stat. 52, Geo. III, c. 150, directs the parish registers to be kept by the clergyman, and as no explanation was given of

* From personal experience the writer is convinced that any man of gentleman-like address would find it easy, in the majority of country parishes, to obtain, under the plea of making a long search, access to the registers for several hours together, without the safeguard of any continuous supervision to prevent fraudulent erasure, mutilation, or interpolation.

† *Doe d. Lord Arundell v. Fowler*, 19 Law J. Rep. N. S. (Q. B.)

the book being in the possession of the clerk, it had not been produced from the proper custody and that *the evidence was inadmissible.*

The defects of the present system of preserving (?) the old registers may be thus summed up.

1. *The preservation of the registers is not, and owing to defects inherent in the system itself cannot be, ensured.* A very large proportion of the registers has already disappeared, and the residue is decreasing every year.

2. *Fraudulent mutilations, erasures, and interpolations are of frequent occurrence,* and may be effected, in many cases, with but little difficulty.

3. *Scattered all over the kingdom, the registers are inaccessible* to searchers, unless at a large expenditure of time and money. The majority of the clergy are incapable of deciphering the handwriting of the ancient registers.† and moreover cannot be trusted to exercise sufficient care in making a search. A journey, sometimes long and always relatively expensive, is thus rendered necessary in order to personally make the search. A general search through the registers of one or more counties, which is sometimes requisite, is rendered practically impossible on account of the expense it would involve.

(4) *When required to be produced in court for legal purposes, the registers are exposed to great risk in transmission,* the suitors are put to much expense, and the clergyman is taken away from his parochial duties, often to the great inconvenience of himself and parishioners.

(5) *Copies are frequently received in evidence, when the original register ought properly to be produced.* “The practice of admitting the copy of a register without more than merely proving it to be a copy of the register is to be justified only on the

* “The characters of the ancient transcripts are illegible to three-fourths of the present clergy.”—Sir Thos. Phillips to the Chairman of the Select Committee in 1133.

ground that the register cannot conveniently be spared from the place where it is supposed to be deposited. The danger of fraud arising from it is very great, and numerous cases may be cited in which copies of registers have been admitted when no credit was due to the original.

"The House of Lords have, since the Chandos case, come to a resolution not to admit in evidence, in peerage claims, the copies of registers, but to require the production of the originals. It may be thought more necessary to require the production of original registers in peerage claims than in claims to property in courts of law, because in the former there is no opposing party, and the register, if not produced by the claimant, would not appear at all, whereas in claims to property, if it is in the interest of the plaintiff to keep back the original register it will be the interest of the defendant to produce it, and consequently between them the original would be sure to find its way into court; but in practice it is not found that such is the case, and even if it were so, it is no sufficient reason for not requiring the production of the original in the first instance. A copy is not the best evidence that the nature of the thing is capable of.* (Hubback, p. 489.)

THE REMEDY.

In seeking a remedy for the present state of things, we have two precedents to guide us, those of Scotland and the NON-parochial Registers of England.

* "I recollect a case," said Lord Eldon in *Fairlie v. Freeman*, "upon the circuit which I went, where we tried an ejectment in a town that was a county of itself, with respect to a particular property; the plaintiff in the ejectment recovered. There was then a trial as to another part, a very large estate, which was to take place in the county at large on the next day. Between the evening and the next morning we sent over to examine the Register Book by the copies which had been produced on the first trial, and in consequence of that, they never ventured to go on with the second trial."

(1.) When the system of Civil Registration was introduced into Scotland by the "Act to provide for the better Registration of Births, Deaths, and Marriages, in Scotland,"* passed August 7, 1854, care was taken to secure the future safe custody of the *old* Parochial Registers, which by sec. 18, were ordered to be transmitted to the Registrar-General for preservation in the General Registry Office, at Edinburgh.

(2.) On Sep. 13, 1836, Commissioners were appointed by letters patent "to inquire into the safe-custody and authenticity of NON-parochial registers," which had been kept by the various dissenting communities. In consequence of the report of these Commissioners was passed "An Act to Enable Courts of Justices to admit Non-parochial registers as evidence of Births, Baptisms, Deaths or Burials, and Marriages,"† under the provisions of which many thousand volumes of these registers were collected and deposited with the Registrar-General, in London, by whose direction they have been properly arranged and indexed. A fresh commission was appointed in 1857 in order to make similar provision for certain non-parochial registers which had not been sent to the Registrar-General under the former commission, and nearly 300 more volumes have been collected and deposited with the others.

In their report, the commissioners of 1857 say: "We have personally inspected the place of deposit in Somerset House which the Registrar-General has provided for [the non-parochial registers] and find it to be admirably adapted for the purpose of preserving them, consisting of spacious fire-proof rooms well warmed with hot water pipes."

Why should there be any further delay in extending to the old parish registers of England and Wales a protection similar to that which has been already afforded, with such beneficial results, to those of Scotland, and to the English NON-parochial registers?

* 17 and 18 Vic., c. 80.

† 3 and 4 Vic., c. 92.

The descendant of an orthodox ancestor, while rejoicing at the care bestowed on the Non-parochial registers, has yet a fair ground for complaint against the injustice to which he has been subjected by this piece-meal legislation. If he wish to prove the birth, marriage, or burial of his ancestor, he is beset with difficulties, and may not improbably fail altogether, through the want of proper provision for the safe custody of parish registers; whilst the descendant of a non-conformist, wishing to prove similar facts concerning his own ancestor, has had every facility afforded him by the legislature. Yet, in the first case, the particular event (birth, death, or marriage,) was registered at the time in the proper legal manner with a view to preserve a record of it for the behoof of posterity, while in the second case, the event was knowingly registered in such a manner as not to be legal evidence at the time, and consequently afforded no reasonable expectation that it would be evidence thereafter.

If the old Parish Registers of England were all collected and deposited in London in a fire-proof building (either at the Public Record Office, which would offer the best accommodation, or with the Registrar-General, at Somerset House), the omission in the Act of 1836 would be supplied, and a uniform system established for the safe custody and accessibility of the Parochial Registers of Scotland, and the Parochial and Non-Parochial Registers of England and Wales.

By the adoption of this plan, all the defects of the present system would be obviated:—

- (1) The preservation of the registers from future destruction would be rendered certain.
- (2) Fraudulent mutilations, erasures, and interpolations, would become all but impossible.
- (3) The facility of reference, in London, to all the registers of the kingdom, would be an inestimable boon to all searchers, especially with the aid of a general alphabetical index, which could be compiled on the same plan as that now in use at the

Registrar-General's which comprises all births, deaths, and marriages since July, 1836, and the non-parochial registers.

(4) The registers would more easily, at much less expence, and with much less danger to themselves, be producible in courts of justice, and

(5) They would never get out of the hands of their legal custodians.

The details of carrying out such a measure as is here proposed present no features of difficulty. A short Act of Parliament could be passed authorizing the change. It would be desirable that a commissioner should be appointed for each diocese (or whatever other territorial division might be adopted) personally to receive the registers from the respective incumbents, both for the purpose of seeing that no registers were inadvertently left behind and to ensure the requisite care against loss in transmission. When collected, the Registers, duly identified, would be handed over by the Commissioners to the custody of the Master of the Rolls (or Registrar General), to be by him arranged and iudexed.

The question of expense demands a few remarks. The cost of carrying out the reform advocated falls under three heads : (1) cost of collection, (2) cost of arranging and indexing, (3) cost of extra fire-proof rooms.* The total primary outlay would be small in amount, and the permanent annual expenditure would be represented by the pay of a few additional clerks, and possibly, by a very slight increase in the cost of building repairs.

The attainment of so useful a reform, affecting as it does the interests of all classes, is surely worth the expenditure on the part of the nation of even a large sum if requisite for the purpose. But by the plan proposed the National Exchequer

* This item is put down on the supposition that the accommodation of the Public Board Office is not now sufficient. It might however be unnecessary to erect any additional fire-proof rooms.

would, in a few years time, be re-couped every penny of the primary outlay, and would in all probability derive a considerable addition to its income. We have no precise data for estimating the average amount annually received by each parochial incumbent for search fees in respect of the *old* registers. But if we put this amount at only 10*s.* (which is believed to be a fair estimate) we should get an aggregate income of 5,000*l.* * which would be receivable at the central depository in London. †

The fees would actually in all probability exceed this sum, as the greatly increased facility of reference would undoubtedly largely augment the number of searchers. We should no longer see advertisements offering to Parish Clerks a reward of 10*l* and upwards for a missing baptismal or marriage certificate, but the person interested would be enabled, by the expenditure of the moderate fee of 2*l*, to ascertain once for all whether the required entry were in existence, or not.

As regards any claim which the clergy may be considered to have to compensation for the loss of fees consequent upon the removal of the old registers from their custody, it might properly be urged that the neglect with which, as a body, they have treated these records entrusted to their care, scarcely entitles them to make such a demand. In the majority of cases the clergy would probably be only too glad to escape from the responsibilities of guardianship and the trouble of

* The number of parishes is, in round numbers, 10,000.

† The fees at present payable to incumbents are: for a search of one year, 1*s.*; for every additional year, 6*d.*; for every single certificate, 2*s. 6d.* At the Registrar General's Somerset House, the fees are: for a particular search, 1*s.*; for a general search, £1; for a certified copy of any entry, 2*s. 6d.* Considering the much greater number of years over which the old registers extend as compared with the years comprised in the Registrar General's present book (1837 to present time) a fee of £2 might fairly be charged for a general search in the old registers when deposited in London.

making searches. We have seen, moreover, that these fees, though in the aggregate producing a large sum, are so insignificant in respect of each separate living, that the question of loss to individual incumbents might fairly be governed by the maxim "*de minimis non curat lex.*"*

CONCLUDING REMARKS.

It must not be supposed that the attention of the government has not, from time to time, been called to the grave inconveniences and dangers which characterize the present system.

Sir Thomas Phillips, in his evidence before the Select Committee in 1833, suggested that "The wisest plan would be to transfer all *Old Registers* previous to 1700 to the British Museum; and a modern transcript made at the expense of the parish."

In 1857, a Bill was prepared for Parliament by the late Mr. Mann, Chief Clerk at the Registrar General's, by which

* The more modern Registers begin with the year 1813, and differ from those of earlier date both in their far better state of preservation and in their form (being entered in books supplied by the King's Printer under the Act of 1812). The greater part of the fees are derived from searches in, and extracts from, these modern registers. An arrangement could easily be made, if thought desirable, by which the clergy would retain possession for 20 years longer of these registers between 1812 and 1837, before delivering them up to the central depository. Under the Scotch Act, while the registers prior to 1820 were at once sent to the Registrar-General of Scotland, those between 1820 and 1855 were directed to be kept by the "Parochial Registrars" for 30 years prior to being deposited at Edinburgh. Though some advantage might accrue from leaving the more modern registers in the hands of the incumbents for a limited period, the disadvantage of continued liability to destruction by fire, theft, &c., and to falsification, would seem to outweigh this.

it was proposed that each parish should cause its Registers, from 1750 to 1837, to be copied and transmitted to the Registrar General. This proposal was ultimately abandoned chiefly on account of the anticipated objection to the expense on the part of the parishes. It was moreover inadequate as dealing only with the more modern Registers, leaving the old ones in their state of neglect and decay.

The *Non-Parochial Registers Commissioners*, in their report (1858) mention that the Registrar General had had submitted to him, and had then under his consideration the draft of a Bill proposed to be introduced into Parliament for providing the means of framing a general index to all the *Parochial Registers* in England and Wales since 1701, or such other period as might be deemed sufficiently remote. They express their opinion that the scheme, if carried out, "would unquestionably facilitate, to an extent which can scarcely be too highly appreciated, the production and preservation of these important national records," and while abstaining from formally recommending such a scheme as not coming within the range of their duties under the Commission, they "allude to the possibility of the adoption of such a measure with respect to the *Parochial Registers* as an additional reason for recommending the same course with respect to the *Non-Parochial Registers* in order to provide one central means of reference for all descriptions of entries."

Some years subsequently the late Lord Lyndhurst, impressed with the importance of preserving the Old Parish Registers, collected materials with a view to bringing the matter before the House of Lords; but owing to his great age and other circumstances, his intention was never carried into effect.

In 1868, the late Mr. J. Southerden Burn, (author of the History of Parish Registers, and a member of the *Non-Parochial Registers Commissions* of 1837 and 1857) submitted to the Government a proposal for a partial remedy by requiring every parish to cause to be made a written or printed

copy of the existing Register, from the earliest date down to the 25th March, 1754, and to deposit the original of such Registers with the Bishop of the Diocese, to be by him kept in a detached and fire-proof building. The expense of such copies to be defrayed out of the Poor Rate.

In the same year the writer, in ignorance of Mr. Burn's action in the matter, submitted to the then Home Secretary an outline of the plan advocated in these pages. To this plan Mr. Burn subsequently gave his adhesion, which he was induced to do by a consideration of the much greater expense of providing separate Diocesan Buildings, the greater accessibility and other advantages pertaining to London as the place of deposit, and the justice of preserving National Records at the national expense instead of by a charge on the local rates.

These various proposals have not hitherto resulted in any legislative action. The facts of the case, though known to most legal practitioners and archaeologists, have never been fully realized by our legislators, much less by the public generally.

It has been demonstrated in the preceding pages that :—

1. The old parish registers are National Records of the greatest importance, in which every one has an interest, the poor man most of all.

2. The present condition of these Registers is disgraceful, their custody is the reverse of *safè*-custody, they are gradually, but surely, perishing.

3. Under the present system, the administration of justice is often impeded, the perpetration of fraud is encouraged, and searchers are put to the maximum of inconvenience and expense.

Having regard to these facts, we have surely waited long enough for a reform which ought to have been effected 40 years ago, when the Parish Register Returns were first made public.

Let us hope that a measure calculated to be so universally

beneficial in its effects, the urgency of which is so manifest, and which has been so long delayed, may receive the attention of the legislature during the coming session of Parliament.

THE BISHOPS' TRANSCRIPTS.

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It is necessary to say a few words respecting the nature and present condition of what are called the "Bishops' Transcripts."

By an injunction of Queen Elizabeth (25 Oct., 1597) it was ordered that each year's parochial registration should be transcribed and sent annually, by the clergy, to the bishop of the diocese.

This injunction was repeated from time to time down to the Act of 1812 (52 Geo. III., c. 146) which specially enacted that copies on parchment of all the entries made by the rector, &c., verified and signed by him, to be made within two months from the end of the year, should be periodically sent to the registrar of the diocese; which registrar should every year report to the bishop whether such copies had been sent, and on failure of transmission of such copies should report the fact specially to the bishop: that the registrar should cause such copies to be securely deposited, and preserved from damage by fire or otherwise, and to be *carefully arranged*, and cause *correct alphabetical lists* to be made of all persons and places mentioned therein.

The value of these transcripts, *where they exist*, has been abundantly proved.* The committee on Public Records, in the Report, say, "this regulation for Transcripts, considering the great utility that may be derived from it, in guarding the evidences of title and pedigree from spoliation and confusion,

ought in all instances to be completely and punctually enforced."

Owing, however, to there having been no *money* penalty for enforcing the transcripts, and no fees to the bishop's registrar for arranging and indexing them when sent, these transcripts are more or less wanting from thousands of parishes in England, and where they exist are in a most neglected and confused state.† The Act of 1812 empowered the bishops to make a survey of the places where registers were kept and to report to the Privy Council a plan for remunerating bishops' registrars for the trouble of arranging and indexing these transcripts; but only one report was ever sent to the Privy Council. "Of my personal knowledge," says a writer in *Notes and Queries*, of May 14, 1870, "there are three dioceses in England where they (the transcripts) lie in the most neglected state—confused masses of damaged paper and crumpled parchment. In one of these dioceses they occupy the floor of the upper story of an ancient turret, the resort of bats and owls for generations."

If the plan for concentrating the old parish registers in London be carried out, the Bishops' Transcripts, (which supply the *lacunæ* in the original registers, of the accuracy of which they at the same time serve as tests,) ought to be deposited with them so as to afford facilities of mutual collation.

* See *Arnold v. Bishop of Bath and Wells*, 5 Bing., 316; *Attorney-General v. Oldham*; *Walker v. Beauchamp (Countess)* 6 Car., & P. s. 552. In the Angell case, where a working man established his claim to property valued at a million of money, the Attorney-General obtained a rule *nisi* for a new trial, on the ground that the registers produced in court had been tampered with, as was proved by comparing them with the bishop's transcripts. The original entry was the burial of "Margaret Ange," which had been altered to "Marriott Angell." See also the case of *Doe dem King and White v. Farran*, tried at Chelmsford, 1829.

† In the evidence of Sir William Betham, before the committee, 1832, the bishops' transcripts are described as "lying unarranged and unconsultable."

